



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,727	12/10/2001	Kirsten Smith	0275Y-000418	4703

7590 07/28/2004

MARK A FRENUP
HARNES DICKY & PIERCE PLC
P O BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER

KRAMER, JAMES A

ART UNIT PAPER NUMBER

3627

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/016,727

Applicant(s)

SMITH ET AL.

Examiner

James A. Kramer

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9, 13-14, 16 and 20 rejected under 35 U.S.C. 102(e) as being anticipated by Heckerman et al.

Heckerman et al. teaches a preference-based catalog browser that utilizes a belief network. Specifically, in a third aspect of the present invention, a method is provided in a computer system having a collaborative filtering system for predicting a desired preference of a user based on attributes of the user (column 4; lines 30-34).

Referencing Figure 5, Heckerman et al. teaches a database of cases. Examiner notes that this database represents a database of products having qualitative attributes assigned to the products that reflect information about potential users of the products.

Heckerman et al. further teaches after receiving the belief network, the preference-based browser receives a request from the user to assist in selecting a product. Within the request are observations of various causal attributes of the user and the product (column 15; lines 60-65). Examiner notes that this teaching represents an expert system posing questions over the user interface to the shopper wherein the questions are

Art Unit: 3627

about the user and the products. In addition, this represents the selections made dependent upon qualitative attributes assigned to the products.

Examiner further notes that claim 13 requires that questions further comprise questions about interests of the user. Heckerman et al. teaches this as characteristics of the user are the same as interests of the user.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-11, 15 and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Heckerman et al. in view of Admitted Prior Art.

Heckerman et al., as described in detail about does not specifically mention that the product being selected by the user are tools. The common knowledge or well-known in the art statement made by the Examiner in the Office Action mailed 4/16/04 is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of Official Notice or the traverse was inadequate (reference MPEP2144.03(C)). In particular, the fact that tools are old and well know products, is now admitted prior art. As such It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Heckerman et al. to include tools as the products sold. One of ordinary skill would have been motivated to combine these reference in order to help a user select the correct tool.

Art Unit: 3627

Claims 12, 17 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Heckerman et al. in view of Official Notice.

Heckerman et al., as described in detail above does not specifically mention skill level of the user as a user characteristic. Examiner takes Official Notice that a user's skill level is an old and well known characteristic of a user. As such it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Heckerman et al. to allow a user to include a skill level as part of their characteristics in order to increase the probability the user will like the product.

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heckerman et al. in view of www.surprise.com.

Heckerman et al., as described in detail above does not specifically teach that the received request from the user to assist in selecting a product includes an occasion. Examiner notes that occasion, as used by Applicant, appears to be directed to a category for the product. This is supported by claim 23, which specifies that occasions include hot products, gadget guru, multi-purpose, household basics, combo kits and nothing in particular.

www.surprise.com teaches a gift recommendation engine in which a user sends a request for to get assistance in selecting a product. As part of this request the system asks a question about an occasion (e.g. What occasion?). This is done in order for the system to better understand what purpose the gift is for.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the received request of Heckerman et al to include a

Art Unit: 3627

question about the occasion for which the user's product is for as taught by www.surprise.com in order to better understand the purpose of the item.

Examiner notes that www.surprise.com was found using "The WayBack Machine" at www.archive.com. The Internet Archive (www.archive.com) is a comprehensive library of Internet sites and other cultural artifacts in digital form. The Wayback Machine is a free service allowing people to access and use archived versions of past web pages within the Internet Archive. Visitors to the Wayback Machine can type in a URL, select a date range, and then will be able to search and view the Internet Archive's enormous collection of web sites, dating back to 1996 and comprising over 10 billion web pages.

Conclusion

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3627

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (703) 305-5241. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (703) 305-4716. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Kramer
Examiner
Art Unit 3627

JAK


Richard Chilcot
~~Supervisory Patent Examiner~~
Technology Center
